

## Environmental Protection Agency

## § 1068.101

to introduce the affected engines into commerce. This does not apply to engines you no longer possess.

*Standard-setting part* means the part in the Code of Federal Regulations that defines emission standards for a particular engine (see § 1068.1(a)). For example, the standard-setting part for non-recreational spark-ignition engines over 19 kW is part 1048 of this chapter.

*Suspend* means to temporarily discontinue the certificate or an exemption for an engine family. If we suspend a certificate, you may not introduce into commerce engines from that engine family unless we reinstate the certificate or approve a new one. If we suspend an exemption, you may not introduce into commerce engines that were previously covered by the exemption unless we reinstate the exemption.

*Ultimate purchaser* means the first person who in good faith purchases a new nonroad engine or new piece of equipment for purposes other than resale.

*United States* means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the U.S. Virgin Islands.

*U.S.-directed production volume* means the number of engine units, subject to the requirements of this part, produced by a manufacturer for which the manufacturer has a reasonable assurance that sale was or will be made to ultimate purchasers in the United States.

*We (us, our)* means the Administrator of the Environmental Protection Agency and any authorized representatives.

*Void* means to invalidate a certificate or an exemption ab initio. If we void a certificate, all the engines introduced into commerce under that engine family for that model year are considered noncompliant, and you are liable for each engine introduced into commerce under the certificate and may face civil or criminal penalties or both. This applies equally to all engines in the engine family, including engines introduced into commerce before we voided the certificate. If we void an exemption, all the engines introduced into commerce under that exemption are considered uncertified (or noncon-

forming), and you are liable for each engine introduced into commerce under the exemption and may face civil or criminal penalties or both. You may not introduce into commerce any additional engines using the voided exemption.

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39264, June 29, 2004; 70 FR 40511, July 13, 2005]

### § 1068.35 What symbols, acronyms, and abbreviations does this part use?

The following symbols, acronyms, and abbreviations apply to this part:

\$ U.S. dollars.

CFR Code of Federal Regulations.

EPA Environmental Protection Agency.

U.S. United States.

U.S.C. United States Code.

## Subpart B—Prohibited Actions and Related Requirements

### § 1068.101 What general actions does this regulation prohibit?

This section specifies actions that are prohibited and the maximum civil penalties that we can assess for each violation. The maximum penalty values listed in paragraphs (a) and (b) of this section are shown for calendar year 2004. As described in paragraph (e) of this section, maximum penalty limits for later years are set forth in 40 CFR part 19.

(a) The following prohibitions and requirements apply to manufacturers of new engines and manufacturers of equipment containing these engines, except as described in subparts C and D of this part:

(1) *Introduction into commerce.* You may not sell, offer for sale, or introduce or deliver into commerce in the United States or import into the United States any new engine or equipment after emission standards take effect for that engine or equipment, unless it has a valid certificate of conformity for its model year and the required label or tag. You also may not take any of the actions listed in the previous sentence with respect to any equipment containing an engine subject to this part's provisions, unless the engine has a valid and appropriate

certificate of conformity and the required engine label or tag. For purposes of this paragraph (a)(1), an appropriate certificate of conformity is one that applies for the same model year as the model year of the equipment (except as allowed by § 1068.105(a)), covers the appropriate category of engines (such as locomotive or CI marine), and conforms to all requirements specified for equipment in the standard-setting part. The requirements of this paragraph (a)(1) also cover new engines you produce to replace an older engine in a piece of equipment, unless the engine qualifies for the replacement-engine exemption in § 1068.240. We may assess a civil penalty up to \$32,500 for each engine in violation.

(2) *Reporting and recordkeeping.* This chapter requires you to record certain types of information to show that you meet our standards. You must comply with these requirements to make and maintain required records (including those described in § 1068.501). You may not deny us access to your records or the ability to copy your records if we have the authority to see or copy them. Also, you must give us the required reports or information without delay. Failure to comply with the requirements of this paragraph is prohibited. We may assess a civil penalty up to \$32,500 for each day you are in violation.

(3) *Testing and access to facilities.* You may not keep us from entering your facility to test engines or inspect if we are authorized to do so. Also, you must perform the tests we require (or have the tests done for you). Failure to perform this testing is prohibited. We may assess a civil penalty up to \$32,500 for each day you are in violation.

(b) The following prohibitions apply to everyone with respect to the engines to which this part applies:

(1) *Tampering.* You may not remove or disable a device or element of design that may affect an engine's emission levels. This restriction applies before and after the engine is placed in service. Section 1068.120 describes how this applies to rebuilding engines. For a manufacturer or dealer, we may assess a civil penalty up to \$32,500 for each engine in violation. For anyone else, we may assess a civil penalty up to \$2,750

for each engine in violation. This prohibition does not apply in any of the following situations:

(i) You need to repair an engine and you restore it to proper functioning when the repair is complete.

(ii) You need to modify an engine to respond to a temporary emergency and you restore it to proper functioning as soon as possible.

(iii) You modify a new engine that another manufacturer has already certified to meet emission standards and recertify it under your own engine family. In this case you must tell the original manufacturer not to include the modified engines in the original engine family.

(2) *Defeat devices.* You may not knowingly manufacture, sell, offer to sell, or install, an engine part that bypasses, impairs, defeats, or disables the engine's control the emissions of any pollutant. We may assess a civil penalty up to \$2,750 for each part in violation.

(3) *Stationary engines.* For an engine that is excluded from any requirements of this chapter because it is a stationary engine, you may not move it or install it in any mobile equipment, except as allowed by the provisions of this chapter. You may not circumvent or attempt to circumvent the residence-time requirements of paragraph (2)(iii) of the nonroad engine definition in § 1068.30. We may assess a civil penalty up to \$32,500 for each day you are in violation.

(4) *Competition engines.* For an uncertified engine or piece of equipment that is excluded or exempted from any requirements of this chapter because it is to be used solely for competition, you may not use it in a manner that is inconsistent with use solely for competition. We may assess a civil penalty up to \$32,500 for each day you are in violation.

(5) *Importation.* You may not import an uncertified engine or piece of equipment if it is defined to be new in the standard-setting part and it is built after emission standards start to apply in the United States. We may assess a civil penalty up to \$32,500 for each day you are in violation. Note the following:

(i) The definition of new is broad for imported engines; uncertified engines

and equipment (including used engines and equipment) are generally considered to be new when imported.

(ii) Engines that were originally manufactured before applicable EPA standards were in effect are generally not subject to emission standards.

(6) *Warranty.* You must meet your obligation to honor your emission-related warranty under §1068.115 and to fulfill any applicable responsibilities to recall engines under §1068.505. Failure to meet these obligations is prohibited. We may assess a civil penalty up to \$32,500 for each engine in violation.

(c) Exemptions from these prohibitions are described in subparts C and D of this part.

(d) The standard-setting parts describe more requirements and prohibitions that apply to manufacturers (including importers) and others under this chapter.

(e) The maximum penalty values listed in paragraphs (a) and (b) of this section are shown for calendar year 2002. Maximum penalty limits for later years may be adjusted based on the Consumer Price Index. The specific regulatory provisions for changing the maximum penalties, published in 40 CFR part 19, reference the applicable U.S. Code citation on which the prohibited action is based. The following table is shown here for informational purposes:

TABLE 1 OF § 1068.101—LEGAL CITATION FOR SPECIFIC PROHIBITIONS FOR DETERMINING MAXIMUM PENALTY AMOUNTS

Part 1068 regulatory citation of prohibited action	General description of prohibition	U.S. Code citation for Clean Air Act authority
§ 1068.101(a)(1) .....	Introduction into commerce of an uncertified product.	42 U.S.C. 7522(a)(1)
§ 1068.101(a)(1) .....	Failure to provide information .....	42 U.S.C. 7522(a)(2)
§ 1068.101(a)(3) .....	Denying access to facilities .....	42 U.S.C. 7522(a)(2)
§ 1068.101(b)(1) .....	Tampering with emission controls by a manufacturer or dealer. Tampering with emission controls by someone other than a manufacturer or dealer.	42 U.S.C. 7522(a)(3)
§ 1068.101(b)(2) .....	Sale or use of a defeat device .....	42 U.S.C. 7522(a)(3)
§ 1068.101(b)(3) .....	Mobile use of a stationary engine .....	42 U.S.C. 7522(a)(1)
§ 1068.101(b)(4) .....	Noncompetitive use of an uncertified engine that is exempted for competition.	42 U.S.C. 7522(a)(1)
§ 1068.101(b)(5) .....	Importation of an uncertified product .....	42 U.S.C. 7522(a)(1)

[67 FR 68347, Nov. 8, 2002, as amended at 69 FR 39265, June 29, 2004; 70 FR 40512, July 13, 2005]

**§ 1068.105 What other provisions apply to me specifically if I manufacture equipment needing certified engines?**

This section describes general provisions that apply to equipment manufacturers. See the standard-setting part for any requirements that apply for certain applications.

(a) *Transitioning to new engine-based standards.* If new emission standards apply in a given model year, your equipment in that model year must

have engines that are certified to the new standards, except that you may use up your normal inventory of earlier engines that were built before the date of the new or changed standards. For example, if your normal inventory practice is to keep on hand a one-month supply of engines based on your upcoming production schedules, and a new tier of standard starts to apply for the 2015 model year, you may order engines based on your normal inventory requirements late in the engine manufacturer's 2014 model year and install those engines in your equipment, regardless of the date of installation. Also, if your model year starts before